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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/466,568	12/17/1999	GERALD R. CRABTREE	APBI-P16-316	1333

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EXAMINER

MCKELVEY, TERRY ALAN

ART UNIT	PAPER NUMBER
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1636

DATE MAILED: 10/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/466,568	Applicant(s) CRABTREE ET AL.	
	Examiner Terry A. McKelvey	Art Unit 1636	

--The MAILING DATE of this communication appears on the c v r sheet with the correspondence address --

THE REPLY FILED 29 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 08 May 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 14, 18, 22, 23 and 49-69.

Claim(s) withdrawn from consideration: 17, 24, 30, 32, 33 and 48.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet


TERRY MCKELVEY
PRIMARY EXAMINER

Continuation of 2. NOTE: The proposed amendments to claims 14 and 18, changing the claims from depending on a vector (one vector) of claim 22, to depending on the whole nucleic acid composition of claim 22, and claims 22, 23, and 49, which add the new limitation of "heterologous thereto", would require further consideration and/or search.

Continuation of 3. Applicant's reply has overcome the following rejection(s): Although not a rejection, the applicant's arguments concerning the Sequence Rules compliance are persuasive and the sequence rules compliance requirement set forth in the Final Rejection is withdrawn.

Continuation of 5. does NOT place the application in condition for allowance because: the rejections remain of record due to the non-entry of the proposed amendments. Applicant's arguments are directed to the amended claims and thus are moot due to the non-entry of the amendments.

Continuation of 10. Other: The IDS statement filed 3/26/03 is improper and thus the references were not considered because the statement refers to it being filed before the mailing date of a final rejection. This is not correct because a final rejection was mailed 11/5/02..